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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,609	12/28/2000	David Robertson	1242/27/2/2	6747

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EXAMINER	
CHUNDURU, SURYAPRABHA	
ART UNIT	**PAPER NUMBER**
1637	7

DATE MAILED: 09/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/750,609	Applicant(s) ROBERTSON ET AL.	
	Examiner Suryaprabha Chunduru	Art Unit 1637	

-- The MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2000* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

4)☒ Claim(s) *1-79* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-79* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Restriction/Election

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17 drawn to a method of screening for susceptibility to sub-optimal norepinephrine (NE) transport in a subject, requiring SEQ ID Nos. 9-10, classified in class 435, subclass 501.

II. Claims 18-32, 40-50, 68, drawn to oligonucleotides, a kit and an isolated nucleic acid, vector and recombinant host cell, requiring SEQ ID Nos. 3-4, 13-14, and 32-34, classified in class 536, subclass 22.1 and subclass 23.4, class 435, subclass 320.1.

III. Claims 33-36, 51, 59-64, drawn to an isolated and purified biologically active human NE transporter polypeptide, requiring SEQ ID Nos. 2- 4, 12-14, classified in class 530, subclass 350.

IV. Claims 37-38, 54-57, 67 drawn to an isolated and purified antibody and method of producing the same, requiring SEQ ID Nos. 2-4, 12-14, classified in class 424, subclass 130.1.

V. Claim(s) 39, drawn to a hybridoma cell line, requiring SEQ ID Nos. 2- 4, 12-14, classified in class 435, subclass 326.

VI. Claims 52-53, 71-79, drawn to a method of detecting RNA and DNA and a method to enhance transport of NE and detection of impaired NE transport, requiring SEQ ID Nos. 1-2, 11-14, and 32-34, classified in class 435, subclass 6.

VII. Claims 58, drawn to a method of detecting polypeptide, requiring SEQ ID Nos. 3-4, 13-14, and 32-34, classified in class 435, subclass 69.1.

VIII. Claims 65-66, requiring SEQ ID Nos. 3-4, 13-14, and 32-34, drawn to a method of detecting antibody, classified in class 435, subclass 7.2.

IX. Claims 69-70, drawn to a transgenic non-human animal, requiring SEQ ID Nos. 3-4, 13-14, and 32-34, classified in class 800, subclass 297.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions in Group I and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the method steps of Group I and VI can be used independently from each other because the end result of the method steps in Groups I and VI yield different results and have different functions.

Inventions II and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed in Group II can be used in purification assays or polymerase chain reaction assays.

Inventions III and VII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed in Group III can be used in ligand binding assays or enzymatic assays.

Inventions IV and VIII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the

product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed in Group IV can be used in histochemical labeling reactions or enzymatic assays.

Inventions in Group III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the products of Group III and IV can be used independently from each other because the products of Groups III and IV are two different products and have different functions and different modes of operation.

Inventions in Group VII and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the method steps of Group VII and VIII can be used independently from each other because the end result of the method steps in Groups VII and VIII yield different results and have different functions.

Inventions in Group V and IX are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the products of Group V and IX can be used independently from each other because the products of Groups V and IX are two different products and have different functions and different modes of operation.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

In this application additionally, no matter which restriction group applicant elects, applicant is required to specify a restricted subgroup (one specific nucleotide sequence) for examination. This requirement is made under 1192 O.G. 68 Notice (November 19, 1996 and revised M.P.E.P.), as the examination of more than one sequence in the application would result in an undue search burden on the PTO.

In order to be perfectly clear, the following subgroups within the Groups are NOT species election. Each nucleic acid sequence is independent and distinct because specific nucleic acid is structurally and functionally distinct from each other specific nucleic acid molecules. The chemical structure of each nucleic acid molecule and each molecule containing the same differ from each other. For example, a polynucleotide comprising SEQ ID NO: 1 is chemically, structurally, and functionally different from a molecule comprising an allele SEQ ID NO. 2.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suryaprabha Chunduru whose telephone number is 703-305-1004. The examiner can normally be reached on 8.30A.M. - 4.30P.M, Mon - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 703-308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and - for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Suryaprabha Chunduru
September 18, 2002

JEFFREY FREDMAN
PRIMARY EXAMINER